THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.11546 of 2006

10.4.2007

Between:

K.Seetharamaiah, S/o.K.Veeraiah

… Petitioner

AND

The Principal Secretary, Government of Andhra Pradesh,
Revenue (Endowments) Department, Secretariat, Hyderabad
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.11546 of 2006

ORDER:

The petitioner claims to be tenant of agricultural land admeasuring Acs.4.12 in survey No.34/1 belonging to Sri Kasivisweswara Swamy Temple, Jupudi village of Amaravathi Mandal in Guntur District – fourth respondent herein. He claims that he falls with the category of "landless poor person" and therefore he is entitled to the benefit under subsection (2) of section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 (the Act, for brevity). The petitioner moved an application before the third respondent under Rule 3 of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Lease of Agricultural Lands Rules, 2003 (the Rules, for brevity). The said application was rejected on 31.3.2005. Aggrieved by the same, he preferred an appeal under Rule 4 of the Rules before the second respondent. When the said appeal was pending, fourth respondent issued notice in Form-I under Rule 5 of the Rules calling upon the petitioner to vacate the land. The petitioner then filed W.P.No.13774 of 2005 seeking invalidation of the proposed auction of leasehold rights. This Court disposed of the writ petition on 28.6.2005 observing that the second respondent should decide the matter expeditiously. The fourth respondent again issued a notice on 23.5.2006 to conduct auction of leasehold rights on 02.6.2006, aggrieved by which the present writ petition is filed seeking a writ of Mandamus declaring that the proposed auction of fourth respondent as illegal and arbitrary.

The fourth respondent filed counter affidavit opposing the writ petition. It is *inter alia* stated that along with the appeal filed before the second respondent, the petitioner also filed an application for condonation of delay in filing the appeal and that the petitioner did not

file any application for stay and, therefore, the proposed auction is valid.

Today, learned Counsel for the petitioner submits that the second respondent has already passed orders on 05.9.2006 confirming the order of the third respondent dated 31.3.2005 rejecting the claim of the petitioner as landless poor person. She submits that when the petitioner is in possession of the land admeasuring Acs.4.12, he squarely falls within the definition of landless poor person as found in the explanation to subsection (2) of Section 82 of the Act and, therefore, the decision of the third respondent as confirmed by the second respondent is erroneous.

In this writ petition, the petitioner did not specifically question the order of the second respondent dated 05.9.2006, which came to be passed after disposal of W.P.No.13774 of 2005. The explanation given is that the order of the second respondent is not communicated to the petitioner. If that be so, the petitioner may obtain a copy of the order and prefer a revision under Section 93 of the Act. Insofar as the auction proposed by the fourth respondent is concerned, while the matter was pending before the second respondent, there was no stay and, therefore, the auction cannot be faulted. Indeed, as per subsection (2) of Section 82 of the Act, whenever the agricultural land, which is not in possession of a landless poor person, is to be leased out, that can be done only by conducting auction as per the Rules.

The writ petition is misconceived and is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

April 10, 2007.
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